

AMENDED IN SENATE JUNE 24, 2003
AMENDED IN ASSEMBLY JUNE 3, 2003

CALIFORNIA LEGISLATURE—2003–04 REGULAR SESSION

ASSEMBLY BILL

No. 1299

Introduced by Assembly Member Daucher

February 21, 2003

An act to amend Sections ~~1745, 1746~~, 1746 and 1749 of the Health and Safety Code, relating to health facilities.

LEGISLATIVE COUNSEL'S DIGEST

AB 1299, as amended, Daucher. Hospices.

~~Existing law, the~~

The California Hospice Licensure Act of 1990, provides for the licensure of hospices by the State Department of Health Services in order to ensure the health and safety of patients experiencing the last phases of life due to the existence of a terminal disease, and to permit qualified persons, political subdivisions of the state, and governmental agencies to comply with requirements of federal law regarding the provision of hospice care.

Existing law further provides that in order for a person, political subdivision of the state, or other governmental agency to be licensed as a hospice, it shall meet certain requirements including providing basic services such as skilled nursing services, social ~~service/counseling~~ *services/counseling* services, medical direction, bereavement services, volunteer services, inpatient care arrangements, and home health aide services. ~~Existing~~

This bill would also authorize licensed hospices to offer related services to meet the unique needs of the community, including, but not limited to, community bereavement support for nonhospice individuals, palliative care consultations by hospice interdisciplinary team members for individuals with life-threatening conditions for pain and symptom management, counseling and advanced care planning, emergency grief response teams for community agencies, and bereavement camps.

Existing law defines these terms for purposes of the act.

~~*This bill would revise these definitions, as well as others relating to the act, and would make various technical, nonsubstantive changes.*~~

Existing law defines an interdisciplinary team, for purposes of the act, to mean a hospice care team that includes, but is not limited to, the patient and patient's family, a physician and surgeon, a registered nurse, a social worker, a volunteer, and a spiritual caregiver.

This bill would instead define an interdisciplinary team to mean a hospice care team that provides interdisciplinary care and includes, but is not limited to, the patient and patient's family, a physician and surgeon who is employed or under contract with the hospice, a registered nurse, a social worker, a counselor, and the patient's physician and surgeon.

Existing law provides that the interdisciplinary team shall be coordinated by a registered nurse and shall be under medical direction.

This bill would instead require that the plan of care be subject to this requirement.

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: no.

The people of the State of California do enact as follows:

1 ~~SECTION 1. Section 1745 of the Health and Safety Code is~~

2 *SECTION 1. Section 1746 of the Health and Safety Code is*
3 *amended to read:*

4 1746. For the purposes of this chapter, the following
5 definitions apply:

6 (a) "Bereavement services" means those services available to
7 the surviving family members for a period of at least one year after
8 the death of the patient, including an assessment of the needs of the
9 bereaved family and the development of a care plan that meets
10 these needs, both prior to and following the death of the patient.

(b) “Hospice” means a specialized form of interdisciplinary health care that is designed to provide palliative care, alleviate the physical, emotional, social, and spiritual discomforts of an individual who is experiencing the last phases of life due to the existence of a terminal disease, and provide supportive care to the primary care giver and the family of the hospice patient, and that meets all of the following criteria:

(1) Considers the patient and the patient’s family, in addition to the patient, as the unit of care.

(2) Utilizes an interdisciplinary team to assess the physical, medical, psychological, social, and spiritual needs of the patient and the patient’s family.

(3) Requires the interdisciplinary team to develop an overall plan of care and to provide coordinated care that emphasizes supportive services, including, but not limited to, home care, pain control, and limited inpatient services. Limited inpatient services are intended to ensure both continuity of care and appropriateness of services for those patients who cannot be managed at home because of acute complications or the temporary absence of a capable primary care giver.

(4) Provides for the palliative medical treatment of pain and other symptoms associated with a terminal disease, but does not provide for efforts to cure the disease.

(5) Provides for bereavement services following death to assist the family in coping with social and emotional needs associated with the death of the patient.

(6) Actively utilizes volunteers in the delivery of hospice services.

(7) To the extent appropriate, based on the medical needs of the patient, provides services in the patient’s home or primary place of residence.

(c) “Inpatient care arrangements” means arranging for those short inpatient stays that may become necessary to manage acute symptoms or because of the temporary absence, or need for respite, of a capable primary care giver. The hospice shall arrange for these stays, ensuring both continuity of care and the appropriateness of services.

(d) “Medical direction” means those services provided by a licensed physician and surgeon who is charged with the responsibility of acting as a consultant to the interdisciplinary

1 team, a consultant to the patient's attending physician and surgeon,
2 as requested, with regard to pain and symptom management, and
3 a liaison with physicians and surgeons in the community.

4 (e) "An interdisciplinary team" means the hospice care team
5 that *provides interdisciplinary care and* includes, but is not limited
6 to, the patient and patient's family, a physician and surgeon *who*
7 *is employed by, or under contract with, the hospice*, a registered
8 nurse, a social worker, ~~a volunteer counselor, and a spiritual care~~
9 ~~giver the patient's physician and surgeon. The team shall be~~
10 ~~coordinated by a registered nurse and shall be under medical~~
11 ~~direction.~~ The team shall meet regularly to develop and maintain
12 an appropriate plan of care. *The plan of care shall be coordinated*
13 *by a registered nurse and shall be under medical direction.*

14 (f) "Plan of care" means a written plan developed by the
15 attending physician and surgeon, the medical director or physician
16 and surgeon designee, and the interdisciplinary team that
17 addresses the needs of a patient and family admitted to the hospice
18 program. The hospice shall retain overall responsibility for the
19 development and maintenance of the plan of care and quality of
20 services delivered.

21 (g) "Skilled nursing services" means nursing services
22 provided by or under the supervision of a registered nurse under
23 a plan of care developed by the interdisciplinary team and the
24 patient's physician and surgeon to a patient and his or her family
25 that pertain to the palliative, supportive services required by
26 patients with a terminal illness. Skilled nursing services include,
27 but are not limited to, patient assessment, evaluation and case
28 management of the medical nursing needs of the patient, the
29 performance of prescribed medical treatment for pain and
30 symptom control, the provision of emotional support to both the
31 patient and his or her family, and the instruction of care givers in
32 providing personal care to the patient. Skilled nursing services
33 shall provide for the continuity of services for the patient and his
34 or her family. Skilled nursing services shall be available on a
35 24-hour on-call basis.

36 (h) "Social service/counseling services" means those
37 counseling and spiritual care services that assist the patient and his
38 or her family to minimize stresses and problems that arise from
39 social, economic, psychological, or spiritual needs by utilizing

1 appropriate community resources, and maximize positive aspects
2 and opportunities for growth.

3 (i) “Terminal disease” or “terminal illness” means a medical
4 condition resulting in a prognosis of life of one year or less, if the
5 disease follows its natural course.

6 (j) “Volunteer services” means those services provided by
7 trained hospice volunteers who have agreed to provide service
8 under the direction of a hospice staff member who has been
9 designated by the hospice to provide direction to hospice
10 volunteers. Hospice volunteers may be used to provide support
11 and companionship to the patient and his or her family during the
12 remaining days of the patient’s life and to the surviving family
13 following the patient’s death.

14 (k) “Multiple location” means a location or site from which a
15 hospice makes available basic hospice services within the service
16 area of the parent agency. A multiple location shares
17 administration, supervision, policies and procedures, and services
18 with the parent agency in a manner that renders it unnecessary for
19 the site to independently meet the licensing requirements.

20 (l) “Home health aide” has the same meaning as set forth in
21 subdivision (c) of Section 1727.

22 (m) “Home health aide services” means those services
23 described in subdivision (d) of Section 1727 that provide for the
24 personal care of the terminally ill patient and the performance of
25 related tasks in the patient’s home in accordance with the plan of
26 care in order to increase the level of comfort and to maintain
27 personal hygiene and a safe, healthy environment for the patient.

28 (n) “Parent agency” means the part of the hospice that is
29 licensed pursuant to this chapter and that develops and maintains
30 administrative controls of multiple locations. All services
31 provided by the multiple location and parent agency are the
32 responsibility of the parent agency.

33 ~~amended to read:~~

34 ~~1745.—(a) The purposes of this chapter are to provide for the~~
35 ~~licensure of hospices by the department in order to ensure the~~
36 ~~health and safety of patients, who by definition, are experiencing~~
37 ~~the last phases of life due to the existence of a terminal disease, and~~
38 ~~to permit qualified persons, political subdivisions of the state, and~~
39 ~~governmental agencies to comply with requirements of federal~~
40 ~~law regarding the provision of hospice care.~~

~~(b) In enacting this chapter, it is the intent of the Legislature to allow all qualified persons, political subdivisions of the state, and governmental agencies to provide hospice services to the people of California. It is also the intent of the Legislature to distinguish between the functions of a volunteer hospice and a hospice requiring licensure. It is further the intent of the Legislature to require the department to establish standards of quality care for licensed hospices.~~

~~(c) It is the intent of the Legislature that regulations adopted by the department pursuant to this chapter not be so burdensome or costly, or both, in terms of implementation, that hospices located in rural areas are forced to stop providing care. Therefore, the department shall exercise discretion and program flexibility in regard to licensing hospices that are located in rural areas of the state.~~

~~SEC. 2. Section 1746 of the Health and Safety Code is amended to read:~~

~~1746. For the purposes of this chapter, the following definitions apply:~~

~~(a) “Bereavement services” means those services available to the surviving family members of a hospice patient for a period of at least one year after the death of the patient, including an assessment of the needs of the bereaved family and the development of a care plan that meets these needs, both prior to and following the death of the patient.~~

~~(b) “Hospice” means a specialized form of interdisciplinary health care designed to provide palliative care services; alleviate the physical, emotional, social, and spiritual discomforts of an individual who is experiencing the last phases of life due to the existence of a terminal disease; provide supportive care to the primary caregiver and the family of the hospice patient; and that meets all of the following criteria:~~

~~(1) Considers the patient and the patient’s family as the unit of care.~~

~~(2) Utilizes an interdisciplinary team to assess the physical, medical, psychological, social, and spiritual needs of the patient and the patient’s family.~~

~~(3) Requires the interdisciplinary team to develop an overall plan of care and to provide coordinated care that emphasizes supportive services, including, but not limited to, home care, pain~~

1 control, and limited inpatient services. Limited inpatient services
2 are intended to ensure both continuity of care and appropriateness
3 of services for those patients who cannot be managed at home
4 because of acute complications or the temporary absence of a
5 capable primary caregiver.

6 (4) Provides for intermittent services for the palliative
7 treatment of pain and other symptoms associated with a terminal
8 disease, but does not provide for efforts to cure the disease.

9 (5) Provides for bereavement services.

10 (6) Actively utilizes volunteers in the provision of hospice
11 services.

12 (7) To the extent appropriate, based on the medical needs of the
13 patient, provides intermittent services in the patient's home or
14 primary place of residence in compliance with the patient's plan
15 of care.

16 (e) "Inpatient care" means a facility-based level of care for
17 pain control, symptom management, care of the dying, the dying
18 process, or respite purposes.

19 (d) "Medical direction" means those services provided by a
20 licensed physician and surgeon, employed or under contract with
21 the hospice, who is a member of the interdisciplinary team, and is
22 available as a consultant to the patient's physician and surgeon.

23 (e) "An interdisciplinary team" means the hospice care team
24 that provides interdisciplinary care and includes, but is not limited
25 to, the patient and patient's family, a physician and surgeon who
26 is employed or under contract with the hospice, a registered nurse,
27 a social worker, a counselor, and the patient's physician and
28 surgeon. The team shall meet regularly to develop and maintain an
29 appropriate plan of care. The plan of care shall be coordinated by
30 a registered nurse and shall be under medical direction.

31 (f) "Plan of care" means a coordinated written plan of goals
32 and interventions based on comprehensive and continuing
33 assessments.

34 (g) "Skilled nursing services" means nursing services
35 provided by, or under, the supervision of a registered nurse under
36 a plan of care developed by the interdisciplinary team and the
37 patient's physician and surgeon to a patient and his or her family
38 that pertain to the palliative and supportive services required by
39 patients with a terminal illness. Skilled nursing services for
40 hospice patients include, but are not limited to, patient assessment,

~~evaluation and case management of the medical nursing needs of the patient, the performance of prescribed medical treatment for pain and symptom control, the provision of emotional support to both the patient and his or her family, and the instruction of caregivers in providing personal care to the patient. Skilled nursing services for hospice patients shall provide for the continuity of services for the patient and his or her family. Skilled nursing services shall be available on a 24-hour on-call basis.~~

~~(h) “Social service services” means services that address the economic and emotional needs of patients and families.~~

~~(i) “Terminal disease” or “terminal illness” means a medical condition resulting in a prognosis of life of one year or less, if the disease follows its natural course.~~

~~(j) “Volunteer services” means those services provided by trained hospice volunteers who provide service under the direction of a hospice staff person.~~

~~(k) “Multiple locations” means sites from which a hospice makes services available within the service area of the parent agency. Multiple locations share administration, supervision, policies and procedures, and services with the parent agency in a manner that renders it unnecessary for the site to independently meet the licensing requirements as a hospice.~~

~~(l) “Home health aide” means a person who is certified as a home health aide by the department.~~

~~(m) “Home health aide services” means those services provided for the personal care of the patient and the performance of related tasks in accordance with the plan of care in order to increase the level of comfort and to maintain personal hygiene.~~

~~SEC. 3.—~~

~~SEC. 2. Section 1749 of the Health and Safety Code is amended to read:~~

~~1749. (a) To qualify for a license under this chapter, an applicant shall satisfy all of the following:~~

~~(1) Be of good moral character. If the applicant is a franchise, franchisee, firm, association, organization, partnership, business trust, corporation, company, political subdivision of the state, or governmental agency, the person in charge of the hospice for which the application for a license is made shall be of good moral character.~~

(2) Demonstrate the ability of the applicant to comply with this chapter and any rules and regulations promulgated under this chapter by the department.

(3) File a completed application with the department that was prescribed and furnished pursuant to Section 1748.

(b) In order for a person, political subdivision of the state, or other governmental agency to be licensed as a hospice it shall satisfy the definition of a hospice contained in Section 1746, and also provide, or make provision for, the following basic services:

(1) Skilled nursing services.

(2) Social ~~service~~ *services/counseling* services.

(3) Medical direction.

(4) Bereavement services.

(5) Volunteer services.

(6) Inpatient care arrangements.

(7) Home health aide services.

(c) (1) The services required to be provided pursuant to subdivision (b) shall be provided in compliance with the “Standards for Quality Hospice Care, ~~2002,~~ 1996,” as available from the California *State Hospice and Palliative Care* Association, until the department adopts regulations establishing alternative standards pursuant to subdivision (d).

(2) To meet the unique needs of the community, licensed hospices may also provide related services. These additional services may include, but are not limited to, community bereavement support for nonhospice individuals, palliative care consultations by hospice interdisciplinary team members for individuals with life-threatening conditions for pain and symptom management, counseling and advanced care planning, emergency grief response teams for community emergencies, and bereavement camps.

(d) The department may adopt regulations establishing standards for any or all of the services required to be provided under subdivision (b). The regulations of the department adopted pursuant to this subdivision shall supersede the standards referenced in subdivision (c) to the extent the regulations duplicate or replace those standards.